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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-210577

DATE: February 17, 1983

MATTER OF: Sun Temporary Services

DIGEST:

1. No basis exists to preclude a contract award merely because the low bidder submitted a below-cost bid.
2. GAO will not review affirmative determination of responsibility except in limited circumstances.

Sun Temporary Services protests the award of a contract by the General Services Administration, Office of Personal Property, to Anybody Anytime, Inc., under solicitation No. 2YCG-JMB-A-A0105.

The basis of the protest is that the contract essentially is a loss contract. However, the practice of below-cost bidding is not illegal and the Government cannot withhold or disturb an award merely because the low offer is below cost. Teamster Local No. 270, B-208634, September 15, 1982, 82-2 CPD 230. Whether the low bidder can perform the contract at the bid price is a matter of responsibility of the bidder. Our Office does not review protests concerning affirmative determinations of responsibility absent a showing that the contracting officer acted fraudulently or in bad faith or that definitive responsibility criteria in the solicitation have not been met. Teamster Local No. 270, supra. Neither exception is alleged here.

Accordingly, we dismiss the protest.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

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